

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

HEALTHGUARD OF LANCASTER, INC.
Plaintiff

vs.

MARK GARTENBERG; STEVEN
GARTENBERG; MARK TISCHLER;
GREENFIELD SPORTS MEDICINE &
REHAB, P.C.; PREMIER SPORTS
MEDICINE & REHAB CENTER, P.C.; and
MAIN LINE MEDICAL SERVICES, INC.
Defendants

NO. 02-CV-2611
(Michael M. Baylson, J.)

DEFENDANTS' JOINT PRETRIAL STATEMENT

I. Nature of the Action

Plaintiff HealthGuard of Lancaster, Inc. ("HealthGuard") has asserted the following claims against the defendants: (1) violation of 18 U.S.C. §1962(c); (2) violation of 18 U.S.C. §1962(d); (3) civil liability under 18 Pa.C.S.A. §4117; (4) common law fraud; and (5) breach of warranty.

Defendant Greenfield Sports Medicine and Rehab Center, P.C. ("Greenfield") has asserted a counterclaim against HealthGuard to recover insurance claims that HealthGuard improperly denied.

II. Statement of Jurisdiction

This Court has subject matter jurisdiction over federal question cases pursuant to 28 U.S.C. §1331 and supplemental jurisdiction over state claims pursuant to 28 U.S.C. §1367. However, if HealthGuard's RICO claims are dismissed on summary judgment, then the Court should relinquish jurisdiction of HealthGuard's state claims.

III. Statement of Facts

There was no scheme to defraud in this case, and thus no mail or wire fraud for purposes of RICO. Dr. Raab was the Medical Director for Greenfield, and he is not a defendant in this case. He performed a physical examination of each patient and prepared a treatment plan. It was Dr. Raab's decision whether to order tests, and if so, what tests to order. He ordered initial diagnostic tests and follow up tests in some cases and not in others. He considered the tests appropriate when he ordered them, and he read and interpreted the test results. He followed up on each patient's progress and noted if they were improving or not. Dr. Raab was present at the facility when the patients received their chiropractic treatments and physical therapy. Treatment was in fact provided as noted in the patient charts.

Main Line Medical Services, Inc. ("MLM"), the alleged RICO enterprise, did not submit insurance claims to HealthGuard on behalf of Greenfield and Premier. MLM did not manage or control either Greenfield or Premier. Thus, the alleged mail and wire fraud did not occur in the course of conducting the affairs of MLM.

Greenfield and Premier were actually managed by Bala Medical Management, Inc., which is not a defendant in this case. It was Bala Medical Management, Inc. that submitted insurance claims to HealthGuard on behalf of Greenfield and Premier.

Steve Gartenberg and Mark Gartenberg did not own or operate Bala Medical Management, Inc., and they were not involved in the management of Greenfield or Premier.

Mark Tischler owned and operated Bala Medical Management, Inc. and was involved in the management of Greenfield and Premier. However, he was not involved in the operation or management of MLM and had no ownership interest in MLM.

IV. List of Monetary Damages

As a result of HealthGuard's improper denial of insurance claims, Greenfield suffered damages in the amount of \$48,724.34. (See Exhibit nos. 113 and 114).

V. List of Witnesses

Mark Tischler, 612 Newtown Road, Villanova, PA 19085, was the President of Bala Medical Management, Inc., which provided management services to Greenfield and Premier. He can testify concerning the organization, operations, management and affairs of Greenfield, Premier and Bala Medical Management, Inc. He can also testify concerning the unpaid invoices that HealthGuard improperly denied.

Steve Gartenberg, 6 Scarlet Oak Drive, Haverford, PA 19041, is the President of Main Line Medical Services, Inc. He can testify concerning the organization, operation, management and affairs of Main Line Medical Services, Inc.

Mark Gartenberg, 313 Lindy Lane, Bala Cynwyd, PA 19004, is an employee of Main Line Medical Services, Inc. He can testify concerning his employment.

Karen Guckert, 2536 Franklin Ave., Broomall, PA 19008, is a billing clerk who was loaned to Bala Medical Management, Inc. by Main Line Medical Services, Inc. She can testify concerning her employment.

Jefferson Katims, M.D., is the President of Neurotron, Inc., 1501 Sulgrave Ave., Suite 203, Baltimore, MD 21209. He can testify concerning the uses and purposes of Neurometer-CPT devices.

Gary DiBlasio, M.D., Advanced Medical Rehabilitation Group, 5500 Village Boulevard, Suite 101, West Palm Beach, FL 33407, is an expert who reviewed patient records provided by Greenfield and Premier and will render opinions as to treatment.

Defendants reserve the right to call any witnesses listed by HealthGuard.

Defendants reserve the right to call rebuttal witnesses.

VI. Trial Exhibits

<u>Exhibit No.</u>	<u>Description</u>	<u>Bates Number</u>
A.	<u>Patient Charts</u> (listed by patient number)	
1.	180322329-02	GR0001-GR0030 HG01041-HG01083
2.	484768869-04	GR0034-GR0068 HG01365-HG01406
3.	484768869-04	GR0031-GR0033 HG01362-HG01364
4.	484768869-04	GR0069-GR0075 HG01407-HG01412
5.	484768869-01	GR0076-GR0144 HG01413-HG01489
6.	180522772-02	
7.	188669732-01	GR0152-GR0209
8.	16654989-01	
9.	203326675-01	GR0210-GR0249 HG01490-HG01528
10.	186480502	GR0250-GR0270
11.	187349211-02	GR0271-GR0295
12.	180382480-02	GR0296-GR0311
13.	92428380-02	GR0312-GR0351 HG01084-HG01135
14.	063547682-01	GR0352-GR0354
15.	231197763-02	

16.	482503499	GR0355-GR0357 HG01136-HG01140
17.	188401807-01	GR0358-GR0379
18.	203528298-02	
19.	168427378-01	GR0380-GR0414 HG00844B-HG00902B
20.	184367635-01	GR0415-GR0445 HG01529-HG01570
21.	180421474-03	
22.	180421474-01	GR0446-GR0480
23.	209649519	GR0481-GR0507 HG01141-HG01185
24.	190465799-01	GR0508-GR0561
25.	174383688-01	GR0562-GR0627 HG00903B-HG00961 HG01571-HG01636
26.	257745051-01	GR0628-GR0630
27.	165321467-02	GR0631-GR0664 HG01186-HG01229
28.	175340299-01	GR0665-GR0697 HG00962-HG01009
29.	210386465-01	GR0698-GR0711
30.	184544042-01	GR0712-GR0729 HG01637-HG01660
31.	200488309-02	GR0730-GR0731
32.	203326672-02	GR0748-GR0781
33.	524669572-01	GR0782-GR0800

34.	190469444-01	
35.	190469444-01	GR0732-GR0747
36.	143762596-02	GR0801-GR0868 HG01661-HG01675
37.	143762596-01	GR0869-GR0958 HG091230-HG01292 HG01676-HG01701
38.	157441227-01	
39.	188667050-01	GR0959-GR0978
40.	192566164-01	GR0979-GR0991 HG01702-HG01737
41.	157323768-01	GR0992-GR1042 HG01293-HG01356
42.	061480804-02	GR1043-GR1057 HG01010-HG01030
43.	074528461-01	GR1058-GR1075
44.	358441713-01	
45.	192600135-01	
46.	165320903-02	GR1076-GR1115 HG01738-HG01793
47.	190487144-01	GR1116-GR1221
48.	555330686-02	HG01794-HG01902
49.	555330686-03	GR1241-GR1313 HG01903-HG01921
50.	555330686-03	GR1241-GR1313 HG01922-HG01968

51.	178405368-01	GR1375-GR1376 HG01031-HG01035 HG01357-HG01359
52.	206708780-01	GR1336-GR1374
53.	197366404-01	GR1314-GR1335
54.	186581013-03	GR1377-GR1399 HG01969-HG01982
55.	186581013-05	
56.	186581013-02	GR1400-GR1503 HG01983-HG01994

B. Patient Routing Sheets (listed by patient number)

<u>Exhibit No.</u>	<u>Description</u>
57.	180322329-02
58.	484768869-04
59.	484768869-04
60.	484768869-04
61.	484768869-01
62.	180522772-02
63.	188669732-01
64.	16654989-01
65.	203326675-01
66.	186480502
67.	187349211-02
68.	180382480-02
69.	92428380-02

70.	063547682-01
71.	231197763-02
72.	482503499
73.	188401807-01
74.	203528298-02
75.	168427378-01
76.	184367635-01
77.	180421474-03
78.	180421474-01
79.	209649519
80.	190465799-01
81.	174383688-01
82.	257745051-01
83.	165321467-02
84.	175340299-01
85.	210386465-01
86.	184544042-01
87.	200488309-02
88.	203326672-02
89.	524669572-01
90.	190469444-01
91.	190469444-01
92.	143762596-02

93.	143762596-01
94.	157441227-01
95.	188667050-01
96.	192566164-01
97.	157323768-01
98.	061480804-02
99.	074528461-01
100.	358441713-01
101.	192600135-01
102.	165320903-02
103.	190487144-01
104.	555330686-02
105.	555330686-03
106.	555330686-03
107.	178405368-01
108.	206708780-01
109.	197366404-01
110.	186581013-03
111.	186581013-05
112.	186581013-02

C. Greenfield Accounts Receivable Reports

- 113. One A/R report dated 11/30/02 (services rendered to Katherine Atkins, Nancy Atkins, Charlotte Houck, Inez Montoya, and Gregory Weitzel)
- 114. A second A/R report dated 11/30/02 (services rendered to John Atkins, Johnathan Atkins, Katherine Atkins, Nancy Atkins, Darlen Burkholder, Vivian Colatta, Marci Crossland, Yvette DePaso, Lynne Geib, Greg Hossler, Charlotte Houck, Marvin Kelley, Diane Lewis, Joseph Metallo, Wendy Metallo, James Rhoads, Charlotte Schaffer, Kathleen Sheldon, Louis P. Sheldon, Phillip Sheldon, Lawrence Welsh)
- 115. Remittance advices from HealthGuard related to the foregoing A/R reports.

D. Other

- 116. Neurometer CPT (www.neurotron.com), Frequently Asked Questions,
- 117. Global Medical Diagnostics, LLC (www.globalmedicalx.com), Musculoskeletal/Spinal Ultrasound
- 118. NeuMed (www.newmedinc.com), NervePace 200-VS
- 119. Letters from HealthGuard to Greenfield dated November 20, 2000, and February 14 and 15, 2001
- 120. Raab Deposition Exhibits 1-18, including Greenfield corporate records

VII. Estimated Number of Days for Trial

Seven (7) trial days.

VIII. Special Comments Regarding Legal Issues, Stipulations, Amendment of Pleadings and Other Matters

Defendants filed a joint motion for summary judgment on October 8, 2003. HealthGuard will file a response. The motion for summary judgment focuses on the elements of HealthGuard's RICO claims.

Defendants plan to file a joint motion or motions in limine regarding the exclusion of evidence related to damages within seven days.

It is anticipated that counsel will enter into a stipulation concerning the authenticity and admissibility of the listed trial exhibits.

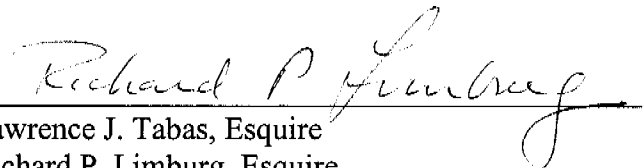
JOHN W. MORRIS, Attorney at Law.

Handwritten signature of John W. Morris in cursive, followed by a horizontal line and the initials "RPL" to the right.

John W. Morris, Esq.
1525 Locust Street, 17th Floor
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215-772-2290

Attorney for Defendants Mark Tischler, Greenfield Sports
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OBERMAYER REBMANN MAXWELL & HIPPEL LLP

Handwritten signature of Richard P. Limburg in cursive, followed by a horizontal line.

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Attorneys for Defendants

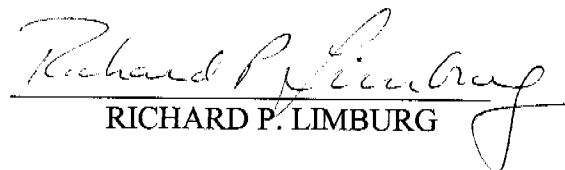
Dated: October 24, 2003

CERTIFICATE OF SERVICE

I, Richard P. Limburg, Esquire, hereby certify that on October 24, 2003, I caused Defendants' Joint Pretrial Statement to be served via first class mail, postage prepaid, upon the following:

Robert M. Frankhouser, Esquire
Hartman Underhill & Brubaker LLP
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Lancaster, PA 17602

John W. Morris, Esquire
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